

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEONON ALSTON,

Plaintiff,

No. CIV S-04-2374 DFL JFM P

vs.

M. SANCHEZ, et al.,

Defendants.

ORDER

\_\_\_\_\_/

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendants are violating his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) by enforcing against him grooming regulations promulgated and implemented by the California Department of Corrections (CDC)<sup>1</sup> in 1997. On July 29, 2005, defendants filed a motion for summary judgment. On the same day, the Court of Appeals decided Warsoldier v. Woodford, 418 F.3d 989 (9<sup>th</sup> Cir. 2005) in which it held that the CDC had failed to meet its burden under RLUIPA of showing that the grooming regulations were the “least restrictive alternative” for achieving the compelling state interest

////

\_\_\_\_\_  
<sup>1</sup> The California Department of Corrections is now known as the California Department of Corrections and Rehabilitation.

1 advanced in defense of the regulations, and, therefore, that the plaintiff in Warsoldier had shown  
2 a likelihood of success on the merits of his RLUIPA claim. See Warsoldier, at 998-1002.<sup>2</sup>

3 Good cause appearing, defendants' motion for summary judgment will be denied  
4 without prejudice to its renewal, as appropriate, in light of the decision in Warsoldier. The  
5 parties will be given one additional period of forty-five days in which to file dispositive motions.  
6 No extensions of time will be granted, and this matter will be reset for pretrial conference and  
7 trial at the end of the thirty day period set in this order if no dispositive motion is filed.

8 In accordance with the above, IT IS HEREBY ORDERED that:

9 1. Defendants' July 29, 2005 motion for summary judgment is denied without  
10 prejudice; and

11 2. The parties are granted one period of forty-five days in which to file dispositive  
12 motions. No extensions of this time limit will be granted.

13 DATED: December 20, 2005.

14  
15   
16 UNITED STATES MAGISTRATE JUDGE

17 12  
18 alst2374.ms1

19  
20  
21  
22  
23  
24  
25  
26 <sup>2</sup> Warsoldier involved an appeal from the denial of a motion for preliminary injunction.